

ARC920010012US1
09/863,268REMARKS

This amendment is in response to the Examiner's Office Action dated 7/7/2005.

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the remarks that follow.

STATUS OF CLAIMS

Claims 1-27 are pending. Claims 1, 2, 7, 14, 15 and 27 are currently amended.

Claims 2 and 7 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter regarded as the invention.

Claims 15-26 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1-8, 14-22, 24, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. (USP 6675151). The pending independent claims are Claims 1, 14, 15 and 27.

Claims 9-13, 23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. in view of the article to Robert English entitled, "Locked in your car? You can choose who helps you in and out of your jam," (hereafter English).

OVERVIEW OF CLAIMED INVENTION

The presently claimed invention provides for a system and a method for enhancing sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule or services (time, location). The system of the present invention automatically identifies windows of opportunity (time, physical location), and once such a window of opportunity is detected, the system determines whether people are affected directly from the

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change of a schedule. This information is then used by service providers to act quickly in order to enhance sales. Heuristics to determine a window of opportunity are based only on schedule changes, which are associated with a rule database. Thus, the present system utilizes network-based technologies and communications to generate or increase additional sales for service providers.

Service providers setup a personalized profile in a database, with a profile manager that allows customizing and managing of profile data. By analyzing an incoming event based on a channel rules database and making a decision with a distribution channel analyzer, the system uses a matching process, or event matcher, to match related service providers to the identified window of opportunity based on location, accessibility, kind of services, or other specified criteria. An accounting manager keeps track of all business transactions. All events along with additional data, e.g. accounting data and generated sales, are stored in an event database to be used for determination of sufficient sales providers in future windows of opportunity.

REJECTIONS UNDER 35 U.S.C. § 112

Claims 2 and 7 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter regarded as the invention.

Claim 2 has been amended to read in pertinent part “wherein said external database utilizes a *service provider profile* database, said service provider profile database containing informational data of said service providers”, and similarly Claim 7 has been amended to read in pertinent part “said manager allowing service providers to customize and manage profile data in said *service provider database*” (*emphasis added*).

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Accordingly, these rejections are traversed, as Claims 2 and 7 are not indefinite and particularly point out which database is referred to.

REJECTIONS UNDER 35 U.S.C. § 101

Claims 15-26 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

The method of Claim 15 is within the technological arts, as it relates to electronic commerce or e-commerce (e-commerce = ~~non~~ commercial transactions conducted electronically on the Internet (Compact Oxford English Dictionary)).

Further, concrete and tangible results are produced thereby, namely “notifying said selected service provider of said opportunity for sales, and providing an accounting functionality for said service provider by analyzing events and transactions of actual sales”. Claim 15 therefore meets both parts of the test. Claims 16-26 are directly or indirectly dependent from Claim 15, and so admissible for the same reasons.

Claim 27 has been amended in accordance with the recommendation in the Office Action, so that the preamble now reads “An article of manufacture comprising a computer program product, said computer program product comprising a computer *readable* medium *storing* *processor-executable* program code” (*emphasis added*), and so is clearly directed to statutory subject matter, as it makes it clear that the code is to be executed and not merely read.

The rejections of Claims 15-26 and of Claim 27 are therefore traversed, as these claims are directed to statutory subject matter.

REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 1-8, 14-22, 24, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Thompson et al.* (USP 6675151).

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The *Thompson et al.* '151 patent relates to a substitute fulfillment system, for temporary replacement of personnel such as teachers and assembly line workers, whose work is 'mission critical'. The system searches a database to obtain a list of potential replacements to be contacted.

The system of *Thompson et al.* does not *automatically* identify windows of opportunity, nor *automatically* detect opportunities, as per the present invention. Rather, it relies entirely upon user input. For example, a teacher may call in sick, and either enters their own absence into the system by telephone or Internet, or the absence is entered by an administrator. Thus, the data regarding an unexpected absence is entered manually, and is not generated from existing data.

The pending independent claims in the present application are Claims 1, 14, 15 and 27. Claims 1 and 14 contain the feature "a window of opportunity event generator, said generator *automatically identifying* said unexpected change in schedule of service or event". Similarly, Claims 15 and 27 recite the process limitation of "*automatically detecting* one or more opportunities for sales based on a unexpected change in schedule of a service or an event" (*emphasis added*). Support for these features as amended can be found in the specification on page 4, lines 13-15: "The system of the present invention *automatically identifies* windows of opportunity (time, physical location), and once such a window of opportunity is detected, the system *determines* whether people are affected directly from the change of a schedule" (*emphasis added*).

In contrast, the system of *Thompson et al.* neither *automatically identifies* unexpected changes, nor does it *automatically detect* opportunities based on unexpected changes. *Thompson et al.* does not employ data mining or extracting techniques that would enable *automatic* identification or detection of unexpected changes. Instead, the existence of unexpected changes has to be entered manually into the system by a worker or administrator. See, for example,

Thompson et al., column 5, lines 18-26 "In one preferred embodiment, an employee registers an

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absence and triggers the automated substitute fulfillment procedure by contacting the substitute fulfillment system. In another preferred embodiment, a business entity, school or school district registers contact information and the system contacts the desired parties regarding unexpected events, benefits, policies or daily announcements. Yet another embodiment encompasses a system which tracks information regarding workers' absences and entitlements", and in more detail in column 10, lines 17-45 "Once the system 10 has been initialized, the system is ready to operate. No further specialized equipment need be set up at the local organization level. The substitute fulfillment operation is initiated when the system 10 identifies and schedules an absence in step 78. In the preferred embodiment of the present invention, the system may be notified of an absence in several ways in step 78. When a worker 18, 46 covered by the system 10 becomes aware of an absence, the worker 18, 46 may contact the communications and processing server 30 by telephone 48, preferably through a toll-free number. Using keys on the standard telephone keypad, the worker 18, 46 identifies himself and enters the details of his pending absence. The skills required of a substitute are stored in data record 405. Alternatively, the worker 18, 46 may contact the communications and processing server 30 via the Internet 26, possibly using a home-based computer 20, through a worker web site which is preferably secure. The information regarding the pending absence is stored in data record 401. In addition to providing information regarding his upcoming absence, the worker 18, 46 may also record or transmit a message directed to the substitute 20. In one embodiment, if the worker 18, 46 notifies the organization 56, rather than the system 10, of the absence directly, the organization 56 may simply update its applet and connect to the communications and processing server 30, which process will automatically update the communications and processing server database 34, notify the substitute fulfillment system 10 of the absence, and trigger the substitute fulfillment process.".

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The rejection under 35 U.S.C. § 103(a) over the *Thompson et al.* '151 patent is therefore respectfully traversed. As claims 1, 14, 15 and 27 are allowable, therefore dependent claims 2-8, 16-22, 24, and 26 are also allowable.

Claims 9-13, 23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Thompson et al.* in view of the article to Robert English entitled, "Locked in your car? You can choose who helps you in and out of your jam," (hereafter *English*).

English relates to a roadside assistance system, specifically the system known as Onstar, and states in pertinent part that "General Motors of Canada Ltd. Includes roadside assistance for new car buyers, but also now offers an emergency system called Onstar, which makes use of the global positioning satellite system and the cellular network to get help to a driver with problems. Onstar, which you buy as an option and pay a monthly fee to use, can do such things as unlocking your car via a satellite signal, or even summoning aid if you've had a crash and are incapacitated".

There is no motivation to combine the teachings of the *Thompson et al.* '151 patent with those of the *English* reference. As previously discussed, *supra*, *Thompson et al.* relates to a substitute fulfillment system, for temporary replacement of personnel such as teachers and assembly line workers. *English*, on the other hand, is a survey article discussing roadside assistance systems. Two more disparate types of system would be hard to imagine.

A person skilled in the art of worker substitute fulfillment systems would not be motivated to look to the art of roadside assistance for a solution to problems in the art of worker substitute fulfillment systems, nor indeed vice versa. Indeed, if one were to combine the system of *Thompson et al.* with the specific features of the Onstar system discussed in the Office Action re *English*, the result might be, for example, a worker substitute fulfillment system with means to detect auto crashes and report their location. The addition of this feature neither solves any

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problem nor serves any need discussed in the *Thompson et al.* '151 patent. Further, there is no suggestion anywhere in either the *Thompson et al.* '151 patent or the *English* reference that would lead one skilled in the art to combine the teachings of these references. The combination is therefore not obvious to one skilled in the art.

In addition, claims 9-13, 23 and 25 are dependent on claims that are allowable, and so also allowable for that reason.

The rejection under 35 U.S.C. § 103(a) over the *Thompson et al.* '151 patent in combination with *English* is therefore respectfully traversed.

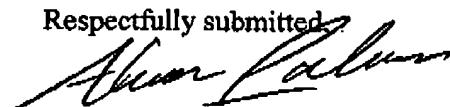
SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicants' presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this amendment has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0441.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicants' representative at the below number.

Respectfully submitted,



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